

SENATE BILL 90

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(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Agriculture)**

Requested: November 15, 2009

Introduced and read first time: January 13, 2010

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 9, 2010

CHAPTER _____

1 AN ACT concerning

2 **Secretary of Agriculture – Farm Quarantine**

3 FOR the purpose of authorizing the Secretary of Agriculture to establish a farm
4 quarantine and issue certain orders under certain circumstances; requiring the
5 Secretary to consult with the Governor, the Secretary of Health and Mental
6 Hygiene, and the Secretary of the Environment before establishing a
7 quarantine; requiring the Secretary to give certain notice of a quarantine;
8 requiring the Secretary to provide procedures to alter or remove a quarantine;
9 authorizing the Secretary to take certain actions, including entering private
10 property for certain purposes under certain circumstances; prohibiting a person
11 from resisting a certain order or quarantine of the Secretary or concealing
12 certain facts; authorizing a quarantine to provide for a civil penalty for certain
13 purposes, not to exceed to a certain amount; authorizing the Secretary to bring
14 an action for injunctive relief under certain circumstances; providing that
15 certain provisions of this Act do not limit the authority of the Secretary of the
16 Environment under a certain provision of law; authorizing the Secretary to
17 apply to a court for an administrative search warrant under certain
18 circumstances; authorizing a judge to issue an administrative search warrant
19 under certain circumstances; and generally relating to the authority of the
20 Secretary of Agriculture to establish and to enforce a quarantine order to
21 control or restrict the use of farmland, crops, livestock, poultry, or a farm
22 product.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
2 Article – Agriculture
3 Section 2–103.1 and 2–103.2
4 Annotated Code of Maryland
5 (2007 Replacement Volume and 2009 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Agriculture**

9 **2–103.1.**

10 (A) THE SECRETARY MAY ESTABLISH A FARM QUARANTINE AND ISSUE
11 APPROPRIATE ORDERS NECESSARY TO CONTROL OR RESTRICT THE USE OF
12 FARMLAND, CROPS, LIVESTOCK, POULTRY, OR A FARM PRODUCT EXISTING ON A
13 FARM THAT:

14 (1) HAS BEEN EXPOSED TO OR CONTAMINATED BY A
15 RADIOLOGICAL OR CHEMICAL TOXIC MATERIAL OR AGENT; OR

16 (2) IS INFECTED OR INFESTED WITH A DISEASE OR PEST.

17 (B) BEFORE ESTABLISHING A QUARANTINE FOR A FARM, THE
18 SECRETARY SHALL CONSULT WITH THE GOVERNOR, THE SECRETARY OF
19 HEALTH AND MENTAL HYGIENE, AND THE SECRETARY OF THE ENVIRONMENT
20 ON ISSUES OF HUMAN HEALTH AND THE ENVIRONMENT.

21 (C) BEFORE A QUARANTINE OR ORDER ISSUED UNDER THIS SECTION
22 TAKES EFFECT, THE SECRETARY SHALL GIVE REASONABLE NOTICE OF THE
23 QUARANTINE OR ORDER:

24 (1) IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
25 QUARANTINE AREA;

26 (2) THROUGH TELEVISION OR RADIO SERVING THE
27 QUARANTINED AREA;

28 (3) BY CIRCULATING NOTICES OR POSTING SIGNS AT
29 CONSPICUOUS PLACES IN THE QUARANTINE AREA; OR

30 (4) BY NOTIFYING EACH LANDOWNER ~~OR~~, TENANT, OR ANIMAL
31 OWNER OF THE QUARANTINE OR ORDER.

1 (D) (1) THE SECRETARY SHALL ESTABLISH PROCEDURES TO ALLOW
2 A LANDOWNER ~~OR~~, TENANT, OR ANIMAL OWNER TO REQUEST THE AMENDMENT,
3 RESCISSION, OR TERMINATION OF A QUARANTINE OR ORDER ISSUED UNDER
4 THIS SECTION.

5 (2) A REQUEST TO AMEND, RESCIND, OR TERMINATE A
6 QUARANTINE OR ORDER ISSUED UNDER THIS SECTION MAY NOT SUSPEND A
7 QUARANTINE OR ORDER OF THE SECRETARY.

8 (E) FOR THE PURPOSE OF CONTROLLING OR RESTRICTING THE USE OF
9 FARMLAND, CROPS, LIVESTOCK, POULTRY, OR FARM PRODUCTS AS PROVIDED
10 BY THIS SECTION, THE SECRETARY MAY:

11 (1) QUARANTINE A FARM AREA OF THE STATE KNOWN OR
12 REASONABLY BELIEVED TO CONTAIN A FARM PRODUCT, CROPS, LIVESTOCK,
13 POULTRY, OR FARMLAND IN AN INFECTED, INFESTED, OR CONTAMINATED
14 CONDITION;

15 (2) REGULATE THE MOVEMENT, DISTRIBUTION, SALE, OR
16 TRANSPORTATION OF A CROP, LIVESTOCK, POULTRY, OR FARM PRODUCT WHEN
17 IT IS REASONABLY LIKELY TO TRANSFER INFESTATION, INFECTION, OR
18 CONTAMINATION;

19 (3) REGULATE OR PROHIBIT THE ON-FARM GRAZING OF
20 LIVESTOCK AND POULTRY, SLAUGHTER AND PROCESSING OF LIVESTOCK AND
21 POULTRY, PROCESSING OF EGGS, AND HARVESTING OR PLANTING OF A CROP IN
22 A QUARANTINED AREA WHEN THE SECRETARY DETERMINES THAT THE ACTION
23 MAY PREVENT, LIMIT, CONTROL, OR ERADICATE ANY THREAT;

24 (4) DIRECT AS PART OF A QUARANTINE ORDER FOR A
25 QUARANTINED FARM AREA, TREATMENTS OR DECONTAMINATION;

26 (5) ENTER PRIVATE LAND THAT IS PART OF A FARM OPERATION
27 TO INSPECT, SAMPLE, OR TEST SOIL OR CROPS, LIVESTOCK, POULTRY, OR A
28 FARM PRODUCT ON A FARM; AND

29 (6) DIRECT THE TREATMENT, STOP-SALE, DETENTION,
30 CONDEMNATION, SEIZURE, OR DESTRUCTION OF ANY CROP, LIVESTOCK,
31 POULTRY, OR FARM PRODUCT WHEN THE SECRETARY KNOWS OR REASONABLY
32 BELIEVES THAT THE ACTION IS NECESSARY TO CONTROL, RETARD, OR
33 ERADICATE A THREAT ON A FARM.

34 (F) A PERSON MAY NOT RESIST THE APPLICATION OF A QUARANTINE
35 OR ORDER OF THE SECRETARY.

1 **(G) A PERSON MAY NOT CONCEAL THE FACT THAT A FARM HAS BEEN**
2 **EXPOSED TO OR CONTAMINATED BY ANY RADIOLOGICAL OR CHEMICAL AGENT**
3 **OR TOXIC MATERIAL OR HAS BEEN INFECTED OR INFESTED WITH ANY DISEASE**
4 **OR PEST.**

5 **(H) ANY FARM QUARANTINE OR ORDER BY THE SECRETARY UNDER**
6 **THIS SECTION MAY PROVIDE FOR:**

7 **(1) THE IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING**
8 **\$10,000 FOR EACH VIOLATION; AND**

9 **(2) THE METHOD AND CONDITIONS OF COLLECTING THE CIVIL**
10 **PENALTY.**

11 **(I) (1) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION**
12 **AGAINST A PERSON VIOLATING THE PROVISIONS OF THIS SECTION, OR**
13 **VIOLATING A VALID ORDER OR FARM QUARANTINE ISSUED BY THE SECRETARY.**

14 **(2) IN AN ACTION FOR AN INJUNCTION BROUGHT UNDER THIS**
15 **SECTION, A FINDING OF THE SECRETARY AFTER A HEARING SHALL BE PRIMA**
16 **FACIE EVIDENCE OF EACH FACT FOUND.**

17 **(3) ON A SHOWING BY THE SECRETARY THAT A PERSON IS**
18 **VIOLATING OR IS ABOUT TO VIOLATE THE PROVISIONS OF THIS SECTION OR IS**
19 **VIOLATING OR IS ABOUT TO VIOLATE ANY VALID ORDER OR QUARANTINE**
20 **ISSUED BY THE SECRETARY, AN INJUNCTION SHALL BE GRANTED WITHOUT THE**
21 **NECESSITY OF SHOWING A LACK OF ADEQUATE REMEDY AT LAW.**

22 **(4) IN CIRCUMSTANCES OF AN EMERGENCY CREATING**
23 **CONDITIONS OF IMMINENT DANGER TO AGRICULTURE, PUBLIC HEALTH AND**
24 **SAFETY, OR THE ENVIRONMENT, THE SECRETARY MAY INSTITUTE AN ACTION**
25 **FOR AN IMMEDIATE INJUNCTION TO HALT ANY ACTIVITY CAUSING THE DANGER.**

26 **(5) AN INJUNCTION INSTITUTED UNDER THIS SECTION SHALL BE**
27 **ISSUED WITHOUT BOND.**

28 **(J) THE SECRETARY MAY ORDER ANY SHERIFF, DEPUTY SHERIFF, OR**
29 **OTHER LAW ENFORCEMENT OFFICER OF THE STATE OR OF ANY COUNTY TO**
30 **PROVIDE INFORMATION OR ASSIST IN THE EXECUTION OR ENFORCEMENT OF**
31 **ANY FARM QUARANTINE OR ORDER OF THE SECRETARY.**

32 **(K) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT ANY**
33 **AUTHORITY OF THE SECRETARY OF THE ENVIRONMENT UNDER § 8-105 OF THE**
34 **ENVIRONMENT ARTICLE.**

1 **2-103.2.**

2 (A) THE SECRETARY OR A DESIGNEE OF THE SECRETARY MAY APPLY
3 TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR AN
4 ADMINISTRATIVE SEARCH WARRANT TO ENTER ANY FARM TO CONDUCT ANY
5 INSPECTION REQUIRED OR AUTHORIZED BY LAW TO DETERMINE COMPLIANCE
6 WITH THE PROVISIONS RELATING TO THE CONTROL AND RESTRICTION OF
7 FARMLAND, CROPS, LIVESTOCK, POULTRY, OR FARM PRODUCTS, EXPOSED TO
8 OR CONTAMINATED BY ANY RADIOLOGICAL OR CHEMICAL TOXIC MATERIAL OR
9 AGENT OR INFECTED OR INFESTED WITH ANY DISEASE OR PEST.

10 (B) (1) THE APPLICATION SHALL BE IN WRITING AND SIGNED AND
11 SWORN TO BY THE APPLICANT AND SHALL PARTICULARLY DESCRIBE THE
12 PLACE, STRUCTURE, PREMISES, VEHICLE, OR RECORDS TO BE INSPECTED AND
13 THE NATURE, SCOPE, AND PURPOSE OF THE INSPECTION TO BE PERFORMED BY
14 THE APPLICANT.

15 (2) BEFORE THE FILING OF A SEARCH WARRANT APPLICATION
16 WITH A COURT, IT SHALL BE APPROVED BY THE ATTORNEY GENERAL OF
17 MARYLAND AS TO ITS LEGALITY IN BOTH FORM AND SUBSTANCE UNDER THE
18 STANDARDS AND CRITERIA OF THIS SECTION, AND A STATEMENT TO THIS
19 EFFECT SHALL BE INCLUDED AS PART OF THE APPLICATION.

20 (C) A JUDGE OF A COURT REFERRED TO IN SUBSECTION (A) OF THIS
21 SECTION MAY ISSUE THE WARRANT ON FINDING THAT:

22 (1) THE APPLICANT HAS SOUGHT ACCESS TO THE PROPERTY FOR
23 THE PURPOSE OF MAKING AN INSPECTION;

24 (2) (I) AFTER REQUESTING, AT A REASONABLE TIME, THE
25 OWNER, TENANT, OR OTHER INDIVIDUAL IN CHARGE OF THE PROPERTY TO
26 ALLOW ACCESS, ACCESS TO THE PROPERTY HAS BEEN DENIED; OR

27 (II) AFTER MAKING A REASONABLE EFFORT, THE
28 APPLICANT HAS BEEN UNABLE TO LOCATE THE OWNER, TENANT, OR OTHER
29 INDIVIDUAL IN CHARGE OF THE PROPERTY;

30 (3) THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION
31 ARE MET;

32 (4) THE SECRETARY OR DESIGNEE OF THE SECRETARY IS
33 AUTHORIZED OR REQUIRED BY LAW TO MAKE AN INSPECTION OF THE
34 PROPERTY FOR WHICH THE WARRANT IS SOUGHT; AND

1 **(5) PROBABLE CAUSE FOR THE ISSUANCE OF THE WARRANT HAS**
 2 **BEEN DEMONSTRATED BY THE APPLICANT BY SPECIFIC EVIDENCE OF ANY**
 3 **FARMLAND, CROPS, LIVESTOCK, POULTRY, OR FARM PRODUCT EXPOSED TO OR**
 4 **CONTAMINATED BY ANY RADIOLOGICAL OR CHEMICAL AGENT OR INFECTED OR**
 5 **INFESTED WITH ANY DISEASE OR PEST.**

6 **(D) (1) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS**
 7 **SECTION SHALL SPECIFY THE PLACE, STRUCTURE, PREMISES, VEHICLE, OR**
 8 **RECORDS TO BE INSPECTED.**

9 **(2) THE INSPECTION CONDUCTED MAY NOT EXCEED THE LIMITS**
 10 **SPECIFIED IN THE WARRANT.**

11 **(E) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS**
 12 **SECTION AUTHORIZES THE SECRETARY OR DESIGNEE OF THE SECRETARY TO**
 13 **ENTER THE SPECIFIED PROPERTY TO PERFORM THE INSPECTION, SAMPLING,**
 14 **AND OTHER FUNCTIONS AUTHORIZED BY LAW TO DETERMINE WHETHER THE**
 15 **FARMLAND, CROPS, LIVESTOCK, POULTRY, OR FARM PRODUCT IS**
 16 **CONTAMINATED BY A RADIOLOGICAL OR CHEMICAL AGENT OR INFECTED OR**
 17 **INFESTED WITH A DISEASE OR PEST.**

18 **(F) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS**
 19 **SECTION SHALL BE EXECUTED AND RETURNED TO THE JUDGE BY WHOM IT WAS**
 20 **ISSUED WITHIN:**

21 **(1) THE TIME SPECIFIED IN THE WARRANT, NOT TO EXCEED 30**
 22 **DAYS; OR**

23 **(2) IF NO TIME PERIOD IS SPECIFIED IN THE WARRANT, 15 DAYS**
 24 **FROM THE DATE OF ISSUANCE OF THE WARRANT.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 26 October 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.